

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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TYLER SMALL,)
Plaintiff(s),) Case No. 2:10-cv-0773-RLH-RJJ
vs.)
STATE OF NEVADA,)
Defendant(s).)

O R D E R
(Motion to Dismiss-#6)

Before the Court is Defendant's Motion to Dismiss (#6, filed June 17, 2010), to which there has not been an opposition or other response filed. The motion will be granted.

The Motion is based on Plaintiff's failure to comply with NRS 41.0337, which requires that "any action against the State of Nevada . . . must be brought in the name of the State of Nevada on relation of the particular department, commission, board or other agency of the State whose actions are the basis for the suit." Plaintiff names only the State of Nevada. He fails to name the particular department or agency being sued.

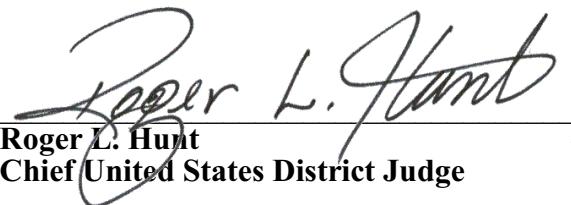
Furthermore, Local Rule 7-2(d) provides that failure to file points and authorities in opposition to a motion constitutes a consent that the motion be granted. *Abbott v. United Venture Capitol, Inc.* 718 F.Supp. 828, 831 (D. Nev. 1989). It has been said these local rules, no less than the federal rules or acts of Congress, have the force of law. *United States v. Hvass*, 355 U.S. 570, 574-575 (1958); *Weil v. Neary*, 278 U.S. 160, 169 (1929); *Marshall v. Gates*, 44 F.3d 722, 723 (9th Cir. 1995). The United States Supreme Court itself has upheld the dismissal of a matter for failure

1 to respond under the local court rules. *Black Unity League of Kentucky v. Miller*, 394 U.S. 100, 89
2 S. Ct. 766 (1969).

3 Plaintiff's failure to file points and authorities in opposition to the motion constitutes
4 a consent that the motion be granted.

5 IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss (#6) is
6 GRANTED.

7 Dated: August 31, 2010.

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Roger L. Hunt
Chief United States District Judge